

¹ The Board notes that, following the December 1, 2020 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

By letter dated July 13, 2020, OWCP denied appellant's request for authorization for drain and injection of the joint/bursa, finding that the evidence of record did not support that it was medically necessary to treat the effects of her accepted employment-related conditions.

In an August 10, 2020 report, Dr. Scott Stevens, a Board-certified orthopedic surgeon, noted that appellant likely had preexisting chondromalacia, which was likely caused in part by her repetitive work activities. He requested a repeat glenohumeral injection to treat appellant's conditions.

In a letter to Dr. Stevens dated October 26, 2020, OWCP indicated that additional information was necessary regarding the request for authorization for an injection for appellant's left shoulder. It requested that Dr. Stevens provide medical finding and diagnostic test results supporting a diagnosis of chondromalacia. OWCP further requested a well-reasoned medical explanation of how the accepted employment injury aggravated her preexisting chondromalacia.

OWCP subsequently received an August 7, 2020 medical report from Dr. Stevens. Appellant also submitted reports of work ability, dated August 7 through November 2, 2020, from Dr. Stevens.

By decision dated December 1, 2020, OWCP denied appellant's request for authorization for drain and injection of the joint/bursa, finding that the evidence of record did not support that it was medically necessary to treat the effects of her accepted employment-related conditions. However, OWCP did not complete its attempt to explain why the evidence was found to be insufficient.

The Board, having duly considered this matter, finds that this case is not in posture for decision.

Section 8124(a) of FECA provides that OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.² Its regulations at 20 C.F.R. § 10.126 provide that the decision of the Director of OWCP shall contain findings of fact and a statement of reasons.³ Additionally, OWCP's procedures provide that the reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome the defect.⁴

In its December 1, 2020 decision, OWCP summarily denied appellant's request for authorization for drain and injection of the joint/bursa. OWCP did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the basis for the decision. It should have explained why the medical

² 5 U.S.C. § 8124(a).

³ 20 C.F.R. § 10.126.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.5 (February 2013).

evidence was insufficient to establish that the request was medically necessary to treat the effects of her accepted employment-related conditions.⁵

Accordingly, the Board will set aside OWCP's December 1, 2020 decision and remand the case for OWCP to review the evidence in support of appellant's request for authorization for drain and injection of the joint/bursa and make findings of fact and provide a statement of reasons for its decision, pursuant to the standards set forth in section 5 U.S.C. § 8124(a) and 20 C.F.R. § 10.126. After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

IT IS HEREBY ORDERED THAT December 1, 2020 decision of the Office of Workers' Compensation Programs is set aside and this case is remanded for further proceedings consistent with this order of the Board.

Issued: August 26, 2021
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

⁵ See *Order Remanding Case, C.A.*, Docket No. 20-1297 (issued March 18, 2021); *Order Remanding Case, C.C.*, Docket No. 20-1323 (issued March 2, 2021).